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Hon. Jamal N. Whitehead

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN RYAN,

Defendant.

NO. CR24-213-JNW

DEFENDANT JOHN RYAN'S
MEMORANDUM REGARDING
RESTITUTION

INTRODUCTION

As part of his plea agreement, John Ryan agreed to make restitution in the amount of \$891,097.71 with the understanding this amount might be adjusted prior to sentencing. In early 2025, Mr. Ryan made an initial payment of \$88,545.75 (*see* PSR ¶ 5) and he intends to make an additional payment shortly after the sentencing hearing.

The Government has presented evidence to confirm the total restitution amount in this case of \$830,605.66 – with \$565,445.66 paid to the primary victim (identified as “V1”) and \$265,160.00 paid to the primary victim’s insurance company (identified as “V2”). *See Dkt. 53.*

DEFENDANT’S MEMO RE: RESTITUTION – I
(*United States v. Ryan*, No. CR24-00213-JNW)

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Mr. Ryan has no objection to the Government's request, although the restitution order should confirm that all payments should first be paid to the primary victim in this case.

DISCUSSION

The provisions of the Mandatory Victim Restitution Act of 1996 ("MVRA") apply to this offence. *See generally* 18 U.S.C. § 3663A. Under the MVRA, restitution "may only compensate a victim for actual losses caused by the defendant's criminal conduct." *United States v. Gaytan*, 342 F.3d 1010, 1011 (9th Cir. 2003). Thus, "restitution may be awarded only for losses for which the defendant's conduct was an actual *and* proximate cause." *United States v. Swor*, 728 F.3d 971, 974 (9th Cir. 2013) (finding victim's loss too attenuated when defendant "introduce[ed] two people . . . in the course of carrying out a fraudulent scheme, [and] the two later, and independently, became involved in a separate, operationally different fraudulent scheme"); *see also United States v. Follet*, 269 F.3d 996, 999-1001 (9th Cir. 2001) (holding that a crisis center's costs for counseling a rape victim were too attenuated to be included in the rape defendant's restitution order).

"The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government." 18 U.S.C. § 3664(e). "Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence." *Id.* "In resolving such a dispute, the district court must rely on 'evidence that possesses sufficient indicia of reliability to support its probable accuracy.'" *United States v. Dadyan*, 76 F.4th 955, 960 (9th Cir. 2023) (*quoting United States v. Anderson*, 741 F.3d 938, 951-52 (9th Cir. 2013)).

DEFENDANT'S MEMO RE: RESTITUTION – 2
(United States v. Ryan, No. CR24-00213-JNW)

1 Mr. Ryan readily acknowledges his obligation to pay restitution to the primary victim of
2 this crime, and he has made preliminary payments before his sentencing hearing. Mr. Ryan has no
3 objection to the Government's request as set forth in the United States' Brief Regarding Restitution.
4 *See Dkt. 51* (requesting a total award of \$830,605.66). Consistent with the Government's
5 supporting evidence, a portion of this total amount – \$265,160 – is owed to an insurance company
6 that made payments directly to the primary victim for this same loss. That restitution amount must
7 be paid directly to the insurance company, "but the restitution order shall provide that all
8 restitution . . . be paid to the victims before any restitution is paid to such a provider of
9 compensation." 18 U.S.C. § 3664(j)(1).

10 Like the Government, Mr. Ryan respectfully submits there is no legal basis for the
11 additional restitution amounts requested by the primary victim. *See Dkt. 54*. It is undisputed
12 that Mr. Ryan worked as a temporary employee at the primary victim's office during 2014 and
13 2015. Following a comprehensive review of all available evidence regarding Mr. Ryan and his
14 employment, the Government saw no basis to claim Ms. McAfee-Ryan may have inflated Mr.
15 Ryan's wages during 2014 or 2015. It is also important to emphasize the charged offense is
16 limited to the period between 2016 and 2023. *See Dkt. 1; Dkt. 17*. As such, consistent with the
17 MVRA, the primary victim's losses are limited to the actual *and* proximate cause of the offense
18 conduct. These claims regarding purported losses from 2014 and 2015 are outside the scope of
19 the offense.

20 Likewise, Mr. Ryan should not be ordered to reimburse the primary victim for legal
21 work completed by attorney Marc Stern. The Government has not included this request as part
22
23

DEFENDANT'S MEMO RE: RESTITUTION – 3
(United States v. Ryan, No. CR24-00213-JNW)

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1 of the restitution award because there is insufficient support to claim these attorney fees were
 2 the proximate cause of the offense conduct.¹

3 It is equally clear there is no legal support for the additional restitution requested by the
 4 other dentist who was hired to work at the primary victim's office in 2020.² Not only are the
 5 other dentist's claims unrelated to the offense conduct in the case, but it should be clear Mr.
 6 Ryan had no involvement in the payments described by this other dentist.

7 CONCLUSION

8 As requested by the Government, and consistent with the parties' agreements, this Court
 9 should award total restitution in the amount of \$830,605.66. Mr. Ryan should receive
 10 credit for all payments made – including his initial payment of \$88,545.75 as well as any
 11 payments made by Ms. McAfee-Ryan – to satisfy this restitution obligation.

12 DATED: May 27, 2024

Respectfully submitted,

14 /s/Todd Maybrown

15 TODD MAYBROWN

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19 _____
 20 ¹ Notably, Attorney Stern's invoice is generic and includes little more than references to unspecified "email(s)"
 21 and "telephone conference(s)." So it remains unclear how any of this legal work would relate to Mr. Ryan or the
 charged offense. In addition, Attorney Stern's invoice documents payments for "recording fees" which clearly
 have no connection to the offense conduct.

22 ² The defense understands this other dentist's restitution claim has been submitted to the Court by a representative
 of the United States Attorneys Office.

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2025, I electronically filed the above document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

DATED at Seattle, Washington this 27th day of May, 2025.

/s/ Alexandra Rosenthal
Alexandra Rosenthal, Legal Assistant

DEFENDANT'S MEMO RE: RESTITUTION – 5
(United States v. Ryan, No. CR24-00213-JNW)

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